IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

Crl.MC.No. 4622 of 2001(J)

CC.111/1998 of ADDL. CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM

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PETITIONER: 4TH ACCUSED

JAYAGOPAL, S/O.SANKARANARAYANAN
AISWARYA HOUSE,
NEAR THIRUMBADI TEMPLE
THRISSUR DISTRICT.

BY ADV. SRI.K.P.DANDAPANI

RESPONDENT: COMPLAINANT

STATE OF KERALA
REPRESENTED BY DYSP, CRIME BRANCH CID (HQ)
CRB, TRIVANDRUM, REPRESENTED BY
THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 18/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

CRL.M.C.NO.4622 OF 2001

Dated this the 18th day of October, 2007

ORDER

The petitioner is the 4th accused in Crime No.254/CR/95 of CBCID, Thiruvananthapuram//C.C.No.111/98 in the court of Additional Chief Judicial Magistrate, Thiruvananthapuram with respect to the offences under Sections 408, 411, 414, 477(A) read with Section 34 IPC.

2. It is the contention of the revision petitioner/A4 that he was just a formal Director of G.P.P.Net Com. (P) Ltd., Thiruvananthapuram and that he is not involved in the day to day affairs of the above company and that there is no evidence produced by the prosecution to implicate him and hence the proceedings initiated against him is liable to be quashed.

3. The prosecution case is that the accused 1 to 5 of whom A1 is the store keeper of the defacto complainant and A2, A4 and A5, the directors of the G.P.P. Net Com. (P) Ltd. (A5 is no more) and A3 is the Manager of the above company. It is alleged

that in pursuance of the common intention, the above accused during the period from 21.8.1993 to 22.11.1995 managed to misappropriate the cables imported from abroad and lend for the use of the defacto complainant i.e., Asianet Satellite Communications Ltd. and that the cost of the above cables, misappropriated cables, amounted to Rs.29.58 lakhs. It is pointed out that none of the witnesses cited by the prosecution has stated anything with respect to the involvement of A4 who has been implicated as being one of the directors of the company. It is further pointed out that A2 allegedly the director in charge of the operations of the company himself has stated that A4 was only a formal director and not involved in the activities of the company. None of the documents produced at the instance of the prosecution also contained any recital as to the involvement of the petitioner/A4. The above fact is also admitted by the Government Pleader.

4. In the circumstances, I find that the prosecution against A4/petitioner cannot be sustained as the same would amount to abuse of process of court. Hence, the petition is

allowed and the proceedings initiated against A4/petitioner in C.C.No.111/98 before the Additional Chief Judicial Magistrate Court, Thiruvananthapuram is herewith quashed.

The Crl.M.C. is allowed.

K.R.UDAYANABHANU
JUDGE

csl